QUESTIONS PRESENTED FOR REVIEW

1. Whether this Court lacks jurisdiction to hear petitioner's argument because the decision below rests upon adequate and independent state grounds.

2. Whether, where there is no conflict among the state and federal courts regarding the "collective knowledge" doctrine, this Court should decline to grant the petition for writ of certiorari. The Illinois Appellate Court in this case, and the courts in every case cited by petitioner, followed the clear and simple guidelines of Whiteley v. Warden, 401 U.S. 560 (1971), and United States v. Hensley, 469 U.S. 221 (1985): Every warrantless arrest must be premised upon probable cause, and the arresting officer(s) need not personally be aware of all the specific facts that establish probable cause to arrest, as long as the officer(s) who directed the arrest be made possessed probable cause to make the arrest.

3. Whether this Court should decline to adopt the good faith exception to the exclusionary rule requested by petitioner where, in doing so under the facts of this case, it would effectively eliminate the constitutional requirement that every warrantless arrest must be based upon probable cause.

4. Whether, where the state is free to develop its own rules governing the admission of evidence and burden of proof at suppression hearings, and where petitioner has consistently insisted that the record in this case is more than adequate in determining whether respondent's statements were attenuated from

his illegal arrest, this Court should decline to hold that the state is entitled as a matter of right to have the case remanded for an attenuation hearing.

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STATEMENT OF LACK OF JURISDICTION

This Court lacks jurisdiction to hear petitioner's argument because the decision below rests upon adequate and independent state grounds. The state court decision does not fairly appear to rest primarily on federal law. Michigan v. Long, 463 U.S. 1032, 1040 (1983). The state court did not cite the Fourth Amendment to the United States Constitution or any federal cases in its opinion. Rather, the court relied exclusively on state cases to support its conclusion that the police lacked probable cause to arrest respondent. The court held that where a dispatcher directed the arresting officers to look for respondent, and where the state at the suppression hearing failed to demonstrate the source of the dispatcher's information, the officers lacked probable cause to arrest. People v. Crane, 244 Ill. App. 3d 721, 614 N.E.2d 66, 69 (1st Dist. 1993). The court further held that where the officers allegedly arrested respondent for possession of cocaine, and where the officer who allegedly observed the cocaine in plain view did not testify, the state failed to demonstrate whether the cocaine was, in fact, in plain view when it was seized. Crane, 614 N.E.2d at 70. Thus, because the opinion does not rely on the federal constitution or federal case law, and essentially holds that the state failed in its burden of proof at the suppression hearing, the state court decision indicates clearly that it is based on bona fide separate, adequate, and independent grounds. Michigan v. Long, 463 U.S. at 1041.

STATEMENT OF THE CASE

The petition contains numerous distortions and misrepresentations of the facts, which are crucial to this Court's decision as to whether to grant the petition for writ of certiorari.

Petitioner correctly points out that the two arresting officers, Sepulveda and Graeber, received an assignment from a dispatcher to "look for" a man named "Tony" who was "wanted for robbery and possibly murder arson." (R. 55) However, then petitioner erroneously states that the information that respondent was wanted had been developed by Detective Timothy O'Meara. (Petition at 4) As the appellate court correctly noted, there is no evidence in the record as to the source of the dispatcher's information. People v. Crane, 244 Ill. App. 3d 721, 614 N.E.2d 66, 69 (1st Dist. 1993). While O'Meara had developed some information regarding respondent's possible involvement in a robbery, the record affirmatively shows that O'Meara was not the source of the dispatcher's information. O'Meara testified that he did not tell anyone in the entire Chicago Police Department that he wanted respondent brought in for questioning (R. 112-113), and he had no communication with any other officer regarding the robbery. (R. 118-119) Thus, the record demonstrates that the dispatch received by the two arresting officers did not originate with O'Meara.

Petitioner distorts the information developed by O'Meara, which he did not disseminate to any law enforcement official,

regarding respondent's possible involvement in a robbery. O'Meara spoke with Raymond Kurecki about a robbery that occurred at the bar owned by the decedent, William McHugh, two days before McHugh was killed in a fire at the bar. According to petitioner, Kurecki told Detective O'Meara that McHugh said Anthony Crane was one of the people who committed the robbery. (Petition at 4)

In fact, Kurecki was not so positive in his belief that it was Anthony Crane who McHugh identified to him as one of the robbers. O'Meara testified that Kurecki told him that one of the people who McHugh said robbed him was "Tony, the fellow that he [McHugh] used to work for--or worked for him [McHugh] rather." (R. 90, 93) Kurecki "thought" that the person McHugh was referring to was Anthony Crane. (R. 90) Thus, the information O'Meara developed, which was not the basis of the dispatcher's order, was hearsay information from a person who was not a victim or an eyewitness to the robbery.

In the most egregious example of misrepresentations of the record, petitioner completely distorts the testimony regarding the seizure of a packet of cocaine from respondent's wallet at the time of his arrest. Petitioner fails to mention that only one of the two arresting officers testified at the suppression hearing, Officer Sepulveda. Officer Graeber, who was the officer who actually made the seizure, never testified. Petitioner states that when respondent opened his wallet "Graeber observed, in plain view, a small folded packet of cocaine. . . . Graeber responded to this observation by reaching into the wallet and

removing the drugs." (Petition at 5) Because Graeber did not testify, the record is in fact devoid of any evidence of whether the packet was in Graeber's plain view when it was inside the wallet or what led Graeber to believe that the packet contained cocaine. Officer Sepulveda did not see the packet until after Graeber removed it from the wallet. (R. 59-60, 76-79) Sepulveda testified that Graeber "just took the packet out of [respondent's] wallet." (R. 77) When asked whether he could see what was inside the wallet, Sepulveda responded, "I never really looked in his wallet." (R. 77) Thus, Sepulveda's testimony regarding what the packet looked like was based on his observation of the packet after it was removed from the wallet. (R. 59-60, 75-79)

Petitioner mischaracterizes the appellate court's opinion regarding Sepulveda's testimony. Petitioner contends that the appellate court held that Sepulveda may not offer "hearsay evidence" as to what Graeber saw. (Petition at 6) In fact, the appellate court held that "Sepulveda was not competent to testify about what the seizing Officer Graeber observed at the time of the seizure." Crane, 614 N.E.2d at 70. Sepulveda did not offer any hearsay testimony regarding what Graeber told him he saw before he seized the packet from respondent's wallet.

Based on petitioner's distortions and mischaracterizations of the record, this Court should deny the petition for writ of certiorari.

REASONS FOR DENYING THE WRIT

I. THERE IS NO CONFLICT AMONG THE STATE AND FEDERAL COURTS REGARDING THE "COLLECTIVE KNOWLEDGE" DOCTRINE. THE ILLINOIS APPELLATE COURT IN THIS CASE, AND THE COURTS IN EVERY CASE CITED BY PETITIONER, FOLLOWED THE CLEAR AND SIMPLE GUIDELINES OF WHITELEY V. WARDEN, 401 U.S. 560 (1971), AND UNITED STATES V. HENSLEY, 469 U.S. 221 (1985): EVERY WARRANTLESS ARREST MUST BE PREMISED UPON PROBABLE CAUSE, AND THE ARRESTING OFFICER(S) NEED NOT PERSONALLY BE AWARE OF ALL THE SPECIFIC FACTS THAT ESTABLISH PROBABLE CAUSE TO ARREST, AS LONG AS THE OFFICER(S) WHO DIRECTED THE ARREST BE MADE POSSESSED PROBABLE CAUSE TO MAKE THE ARREST.

Petitioner contends that an "alarming conflict has manifested" among the state and federal courts regarding the scope of the "collective knowledge" doctrine. (Petition at 8) Petitioner cites thirteen cases in support of its argument that a majority of courts take an unnecessarily "restrictive" approach in defining the collective knowledge doctrine, and cites five cases that it contends take a "moderate" approach in defining the doctrine. (Petition at 8-15)

In fact, a careful reading of all the cases leads to the ineluctable conclusion that the cases do not take a "restrictive" or a "moderate" approach; they all say the same thing. The cases simply follow the clear guidelines of Whiteley v. Warden, 401 U.S. 506 (1971), and United States v. Hensley, 469 U.S. 221

(1985); not one case expresses any confusion regarding the application of Whiteley and Hensley. Each of the cases holds that an arrest must be premised on probable cause. Each of the cases further holds that an arresting officer need not personally be aware of all the specific facts that establish probable cause to arrest, as long as the officer(s) who directed the arrest be made possessed probable cause to make the arrest. Furthermore, in those cases where there is no evidence in the record regarding the source of the information upon which the arrest allegedly is made, the arrest is not upheld.

In the following cases cited by petitioner, the arrests were not upheld where the source of information relied on to make the arrest was not reliable: Olson v. Commissioner of Public Safety, 371 N.W.2d 552, 556 (Minn. 1985) (where police received anonymous call reporting that caller observed a possibly drunk driver, arrest of driver not upheld where no evidence was presented regarding specific facts in caller's knowledge to support bare allegation of criminal activity); and State v. Black, 80 Or. App. 12, 721 P.2d 842, 843-844 (Or.App.Ct. 1986) (where police received anonymous tip that had no indicia of reliability regarding car allegedly speeding and weaving on highway, and trooper spotted car but it was not driving erratically, tip and trooper's observation did not justify stop).

In the following cases cited by petitioner, the arrests were upheld where it was established that the source of information relied on to make the arrest was reliable, even though the

arresting officer(s) may not have had full knowledge of the specific facts that established probable cause: State v. Bruce, 779 P.2d 646, 648-650 (Utah 1989) (police could rely on broadcast regarding suspected robber driving orange car, where eyewitness to robbery notified police about the man who robbed her and who drove off in orange car); State v. Holmes, 28 Ohio App. Ct. 3d 12, 501 N.E.2d 629, 635 (Ohio App. 1985) (officers could rely on bulletin to arrest defendant for smoking marijuana where officer who sent out bulletin was officer who observed defendant smoking marijuana); People v. Fenner, 191 Ill. App. 3d 801, 548 N.E.2d 147, 151 (2d Dist. 1989) (state established grounds for stopping defendants' car where police department received call from private citizen regarding suspicious behavior of three men in a specifically-described car, one police officer found car and dispatched direction of car, and second officer found car, noticed its license expired and stopped car); United States v. Lomas, 706 F.2d 886, 892 (9th Cir. 1983) (where DEA agents were surveilling defendant and observed certain suspicious behavior, agents' supervisor could rely on his subordinates' observations to order arrest); Commonwealth v. Wooden, 13 Mass. App. Ct. 417, 433 N.E.2d 1234, 1237-1238 (Mass.App.Ct. 1982) (where two officers working together observed two defendants engage in certain suspicious behavior, the knowledge of both officers combined could establish probable cause to arrest); United States v. Dento, 382 F.2d 361, 364-365 (3rd Cir. 1967) (where Harrisburg police spoke with two trustworthy witnesses regarding defendant's

alleged criminal activity, New Jersey state police could rely on Harrisburg dispatch to arrest defendant); Polk v. Williams, 565 So.2d 1387, 1389-1390 (Fla.App. 5th Dist. 1990) (where one officer listened to bug placed on informant while second officer observed informant's activities, each officer could rely on the other's information to establish probable cause for warrant); and United States v. Nieto, 510 F.2d 1118, 1120 (5th Cir. 1975) (arrest upheld where tip was passed from reliable informer to agent to arresting agent).

In the following cases cited by petitioner, the courts held that the arrest could not be upheld where the officer who ordered the arrest did not have probable cause to arrest, or where an investigating officer who may have known about the defendant's criminal activity was not the officer who ordered the arrest: People v. Hazelhurst, 662 P.2d 1081, 1085-1087 (Colo. 1983) (arrest upheld where arresting officer was told to arrest Hazelhurst by lead investigator who had evidence that supported probable cause to arrest; however, where arresting officer was not told to arrest Hazelhurst's companion, and investigating officer did not have sufficient reason to suspect companion, arrest of companion not upheld); United States v. Woods, 554 F.2d 242, 260 (6th Cir. 1976) (when group of agents in communication with one another determines that it is proper to arrest an individual, the knowledge of the group that made the decision may be considered in determining probable cause; however, where one agent's order to arrest was not the basis to arrest two of the

defendants, his knowledge cannot be considered in determining probable cause); and United States v. Edwards, 885 F.2d 377, 382-383 (7th Cir. 1989) (detective's reliance upon informant would be imputed to officers who arrested defendant; however, supervising officer's knowledge about defendant could not be relied upon to provide probable cause to arrest where there is no evidence that such knowledge was communicated to any agent who made or ordered arrest).

Finally, the following so-called "moderate-approach" cases cited by petitioner take the same approach in determining whether there was probable cause to arrest as the so-called "restrictive-approach" cases: Colorado Dept of Revenue v. Kirke, 743 P.2d 16, 17-19 (Colo. 1987) (where first officer who arrived on scene of car accident told second officer who arrived that defendant was driver of one of the cars, and second officer conducted sobriety test, second officer could rely on first officer's communication that defendant was driver to arrest defendant); People v. Baca, 198 Colo. 399, 600 P.2d 770, 771 (1979) (where officer arrested defendant following receipt of three broadcasts, probable cause was established where it was shown that officer who issued broadcasts had probable cause to arrest); Williams v. United States, 308 F.2d 326 (D.C. Cir. 1962) (where arresting officer acted on orders based on information that would support probable cause, arrest upheld); and Smith v. United States, 358 F.2d 833, 834-836 (D.C. Cir. 1966) (where agent in Baltimore obtained reliable information from informant to support defendant's

arrest, agent in Washington D.C. could rely upon information to effectuate arrest).

In the present case, the appellate court took the approach taken by all the above-cited cases in finding that the record failed to establish that the arrest was based on probable cause. The record shows that Officers Sepulveda and Graeber received an assignment from a dispatcher to "look for" "Tony" at a certain address, who was driving a specifically-described car, because he was "wanted by the police for robbery and possibly murder arson." (R. 54-55, 62-63) It first should be noted that the dispatcher did not direct the officers to arrest respondent, or indicate that there was a warrant for his arrest. Thus, under the facts of this case, the officers did not even have the authority to arrest Mr. Crane as a result of the dispatch.

Furthermore, the appellate court correctly held that the police lacked probable cause to arrest Mr. Crane on the basis of the dispatch because the state failed to place any evidence in the record as to the source of the dispatcher's information. People v. Crane, 244 Ill. App. 3d 721, 614 N.E.2d 66, 69 (1st Dist. 1993). The court rejected the state's argument that the information Detective O'Meara had gathered could be used by the state to establish probable cause because O'Meara did not tell any other officers in the entire Chicago police force about the information he possessed regarding Mr. Crane's possible involvement in a robbery. (R. 112-113, 118-119); Crane, 614 N.E.2d at 69. Citing People v. Crowell, 94 Ill. App. 3d 48, 418

N.E.2d 477 (3d Dist. 1981), the court held that although an arresting officer may rely upon a dispatch to make an arrest even if he is unaware of the specific facts that established probable cause, the state must demonstrate that the officer who directed the dispatch to be issued possessed facts sufficient to establish probable cause to make the arrest. Crane at 69. In this case, the state simply failed to present any evidence at the suppression hearing as to the source of the dispatcher's information, and whether the person who ordered the dispatch possessed probable cause to order an arrest.

Petitioner contends that O'Meara had facts within his knowledge that established probable cause. (Petition at 17-18) As previously noted, since he did not send out the dispatch to look for respondent, and since it was not his information upon which the arrest was based, it is irrelevant that he may have had probable cause to arrest respondent.

Moreover, the facts within O'Meara's knowledge did not establish probable cause. O'Meara testified that Kurecki told him about a conversation Kurecki had with the victim of the robbery, McHugh, on the day before McHugh was killed. McHugh allegedly told Kurecki that one of the people who stole a cash register from him was "Tony, the fellow that he used to work for--or worked for him rather." (R. 93) O'Meara testified that Kurecki told him that Kurecki "thought" the person McHugh was referring to was Anthony Crane. (R. 90)

Illinois courts hold that an officer may rely on a private

citizen's tip without independently verifying the citizen's reliability, where that citizen was a victim or eyewitness to the crime. People v. Adams, 131 Ill. 2d 387, 546 N.E.2d 561, 565 (1989); People v. Bean, 84 Ill. 2d 64, 417 N.E.2d 608, 610 (1981). Here, Kurecki was neither a victim nor an eyewitness to the crime, and he based his belief that Mr. Crane was the perpetrator on an ambiguous conversation he had with the victim. There is no evidence in the record as to what led Kurecki to conclude that "Tony" was Anthony Crane, other than McHugh's non-specific description. There is no evidence to show whether Kurecki believed that McHugh, who frequently drank and may have been intoxicated at the time of the robbery, provided him with reliable information. O'Meara never spoke with McHugh, so he could not have judged McHugh's reliability. The information McHugh supplied Kurecki and Kurecki passed on to O'Meara, at most, raised a suspicion of Mr. Crane's involvement in the robbery. Accordingly, even assuming O'Meara's knowledge can be used as a basis to validate Mr. Crane's arrest, O'Meara's knowledge was insufficient to establish probable cause to arrest Mr. Crane for robbery.

Petitioner also argues that respondent's arrest for possession of cocaine should have been upheld even though Officer Graeber, who allegedly observed the cocaine in plain view, did not testify. (Petition at 19-21) In making this argument, petitioner completely mischaracterizes the testimony of Officer Sepulveda. Petitioner argues, "According to Officer Sepulveda,

when respondent opened his wallet, Officer Graeber saw in plain view, a small folded packet of cocaine. . . . Officer Sepulveda's testimony, which was based primarily on direct observations and partially on hearsay testimony, sufficiently provides probable cause to arrest respondent." (Petition at 21)

As the appellate court correctly found, the record contains no evidence as to whether the packet was in Graeber's plain view since he did not testify. Sepulveda did not see the packet until after Graeber removed it from respondent's wallet. (R. 59-60, 76-79) Citing People v. Stout, 106 Ill. 2d 77, 477 N.E.2d 498 (1985), which holds that what constitutes probable cause for a seizure must be determined from the standpoint of the officer who made the seizure, the Crane court held that Sepulveda was not competent to testify about what the seizing officer Graeber observed at the time of the seizure. Crane, 614 N.E.2d at 70. Furthermore, contrary to petitioner's contention, Sepulveda did not offer any "hearsay testimony" regarding Graeber's observations. (Petition at 21) Sepulveda never testified about any conversation he had with Graeber or anything Graeber said regarding the packet he removed from respondent's wallet.

Accordingly, where there is no conflict among the state and federal courts regarding the operation of the "collective knowledge" doctrine, and where the appellate court in this case properly found that the state failed to demonstrate probable cause to arrest respondent, this Court should deny the petition for writ of certiorari.

II. THIS COURT SHOULD DECLINE TO ADOPT THE GOOD FAITH EXCEPTION TO THE EXCLUSIONARY RULE REQUESTED BY PETITIONER WHERE, IN DOING SO UNDER THE FACTS OF THIS CASE, IT WOULD EFFECTIVELY ELIMINATE THE CONSTITUTIONAL REQUIREMENT THAT EVERY WARRANTLESS ARREST MUST BE BASED UPON PROBABLE CAUSE.

In United States v. Leon, 468 U.S. 897 (1984), this Court created a good faith exception to the exclusionary rule for situations in which officers acted in reasonable reliance on a search warrant issued by a detached and neutral magistrate, but the warrant is ultimately found to be unsupported by probable cause. Now petitioner is asking this Court to create a "good faith" exception to the exclusionary rule for situations, like the present case, where a dispatcher sends out a message to "look for" the defendant, the defendant is arrested by the officers who relied on the dispatch, but the record is devoid of any evidence that would show the source of the dispatcher's information and that the warrantless arrest was based on probable cause. If adopted, such an exception would allow the police to effect warrantless arrests without probable cause by simply having a dispatcher order an arrest be made. Petitioner is essentially asking this Court to create a rule that would allow it to circumvent the fundamental Fourth Amendment requirement that every warrantless arrest must be based upon probable cause.

The Leon Court specifically refused to extend the good faith exception to situations like the present case. In fact, the Leon Court reaffirmed Whiteley v. Warden, 401 U.S. 560 (1971), and

found that the good faith exception would not apply where an officer obtains a warrant on the basis of a "bare bones" affidavit and then, in an attempt to circumvent the requirements of the Fourth Amendment, relies on colleagues who are ignorant of the circumstances under which the warrant was obtained to conduct the search. Leon, 468 U.S. 923, n. 24.

Moreover, citing Beck v. Ohio, 379 U.S. 89 (1964), the Leon Court specifically found that the good faith exception to the exclusionary rule does not extend to situations where the record fails to show the basis for a warrantless arrest. Leon at 915, n. 13. In Beck, the officer made a warrantless arrest of the defendant and the record failed to show what information the officer had received that would establish probable cause to arrest. Beck, 379 U.S. at 93-94. This Court found:

> It is possible that an informer did in fact relate information to the police officer in this case which constituted probable cause for the petitioner's arrest. But when the constitutional validity of that arrest was challenged, it was incumbent upon the prosecution to show with considerably more specificity than was shown in this case what the informer actually said, and why the officer thought the information was credible. We may assume that the officers acted in good faith in arresting the petitioner. But "good faith on the part of the arresting officers is not enough." (citation omitted) If subjective good faith alone were the test, the protections of the Fourth Amendment would evaporate, and the people would be "secure in their persons, houses, papers, and effects," only in the discretion of the police. Id. at 97.

In the present case, the dispatcher did not even order that Officers Sepulveda and Graeber "arrest" Anthony Crane. The dispatcher ordered that the officers "look for" "Tony" because he was "wanted by the police for robbery and possibly murder arson."

(R. 55) This Court should decline to adopt a good faith exception to the exclusionary rule where the arresting officers rely on a dispatch that does not even order an arrest.

Furthermore, it is possible, as this Court noted in Beck, that the officer who ordered the dispatch had information that constituted probable cause. Nevertheless, it was incumbent on the state to present evidence to show the source of the dispatcher's information and that the information constituted probable cause.

At the suppression hearing the prosecutors failed to present the testimony of Officer Graeber, whom they knew to be the officer who allegedly made the "plain view" observation of the cocaine packet, and they argued that the knowledge of Detective O'Meara, whom they knew did not order the dispatch, could be used as a basis to establish probable cause. The conduct of the prosecutors in standing on such a meager record indicates that they simply could not establish that the individual who ordered the dispatch possessed sufficient knowledge to establish probable cause to arrest Mr. Crane.

Petitioner is asking this Court to establish an exception to the exclusionary rule that would effectively eliminate the fundamental constitutional requirement that every warrantless arrest must be based on probable cause. This Court should decline to create such an exception.

III. WHERE THE STATE IS FREE TO DEVELOP ITS OWN RULES GOVERNING THE ADMISSION OF EVIDENCE AND BURDEN OF PROOF AT SUPPRESSION HEARINGS, AND WHERE PETITIONER HAS CONSISTENTLY INSISTED THAT THE RECORD IN THIS CASE IS MORE THAN ADEQUATE IN DETERMINING WHETHER RESPONDENT'S STATEMENTS WERE ATTENUATED FROM HIS ILLEGAL ARREST, THIS COURT SHOULD DECLINE TO HOLD THAT THE STATE IS ENTITLED AS A MATTER OF RIGHT TO HAVE THE CASE REMANDED FOR AN ATTENUATION HEARING.

States may develop workable rules governing arrests, searches, and seizures, provided that the rules do not violate the constitutional proscription of unreasonable searches and seizures. Ker v. California, 374 U.S. 23, 10 L.Ed.2d 726, 738 (1963). Illinois, by statute and case law, has developed its own rules governing arrests, searches, and seizures, and the conduct of suppression hearings. See, Ill. Rev. Stat. ch. 38, paras. 107-1 through 107-14; 108-1 through 108-14; 114-12 (1989); People v. Statham, 209 Ill. App. 3d 352, 568 N.E.2d 183, 190 (1st Dist. 1991) (at suppression hearing, burden is placed on defendant to prove seizure unlawful; once defendant meets burden, burden of going forward with evidence shifts to state to prove validity of arrest).

In this case, once the appellate court held that Mr. Crane had been arrested illegally, it clearly did not violate his Fourth Amendment rights by reviewing the record of the suppression hearing and holding that the record was sufficient to demonstrate that his statements were not attenuated from his

illegal arrest. People v. Crane, 244 Ill. App. 3d 721, 614 N.E.2d 66, 70 (1st Dist. 1993). The court noted that the prosecution gave no indication of what additional evidence could be adduced on remand to establish that the statement was attenuated. The court also found that the "state insists that the record here is more than adequate to establish attenuation." Id., 614 N.E.2d at 70. In fact, the prosecution in its direct appeal brief did not alternatively request an attenuation hearing; rather, it insisted that the record was sufficient to determine attenuation without remand for a hearing. Furthermore, in its petition for rehearing in the appellate court and in its petition for leave to appeal to the Illinois Supreme Court, the prosecution wrote, "The People should not be bound by the existing record (although the People maintain that it is more than adequate)."

The appellate court in this case merely followed state-created procedural rules regarding the conduct of suppression hearings and held that the record was sufficient to determine the attenuation issue, and, in any event, the petitioner consistently insisted that the record was adequate to establish attenuation. Under the circumstances of this case, this Court has no jurisdiction to interfere with the state court's right to create otherwise constitutional rules regarding the conduct of suppression hearings, and should decline to hold that the petitioner is entitled as a matter of right to have the case remanded for an attenuation hearing.

CONCLUSION

For the foregoing reasons, Anthony Crane, respondent, respectfully requests that this Court deny the petition for writ of certiorari.

Respectfully submitted,

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